



General Assembly

January Session, 2021

Raised Bill No. 6498

LCO No. 3306



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

***AN ACT CONCERNING THE SITING OF CERTAIN SOLAR FACILITIES
ON FARMLANDS AND CORE FORESTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-50k of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) Except as provided in subsection (b) of section 16-50z, no person
4 shall exercise any right of eminent domain in contemplation of,
5 commence the preparation of the site for, commence the construction or
6 supplying of a facility, or commence any modification of a facility, that
7 may, as determined by the council, have a substantial adverse
8 environmental effect in the state without having first obtained a
9 certificate of environmental compatibility and public need, hereinafter
10 referred to as a "certificate", issued with respect to such facility or
11 modification by the council. Certificates shall not be required for (1) fuel
12 cells built within the state with a generating capacity of two hundred
13 fifty kilowatts or less, or (2) fuel cells built out of state with a generating
14 capacity of ten kilowatts or less. Any facility with respect to which a
15 certificate is required shall thereafter be built, maintained and operated

16 in conformity with such certificate and any terms, limitations or
17 conditions contained therein. Notwithstanding the provisions of this
18 chapter or title 16a, the council shall, in the exercise of its jurisdiction
19 over the siting of generating facilities, approve by declaratory ruling (A)
20 the construction of a facility solely for the purpose of generating
21 electricity, other than an electric generating facility that uses nuclear
22 materials or coal as fuel, at a site where an electric generating facility
23 operated prior to July 1, 2004, and (B) the construction or location of any
24 fuel cell, unless the council finds a substantial adverse environmental
25 effect, or of any customer-side distributed resources project or facility or
26 grid-side distributed resources project or facility with a capacity of not
27 more than sixty-five megawatts, as long as: (i) Such project meets air and
28 water quality standards of the Department of Energy and
29 Environmental Protection, (ii) the council does not find a substantial
30 adverse environmental effect, and (iii) for a solar photovoltaic facility
31 with a capacity of [two] one or more megawatts that is approved by
32 declaratory ruling or a solar photovoltaic facility with a capacity of
33 sixty-five or more megawatts that is not approved by declaratory ruling,
34 to be located on prime farmland or farmland of state-wide importance,
35 as determined by the United States Department of Agriculture or the
36 Commissioner of Agriculture or forestland, excluding any such facility
37 that was selected by the Department of Energy and Environmental
38 Protection in any solicitation issued prior to July 1, 2017, pursuant to
39 section 16a-3f, 16a-3g or 16a-3j, the Department of Agriculture
40 represents, in writing, to the council that such project will not materially
41 affect the status of such land as prime farmland or farmland of state-
42 wide importance or the Department of Energy and Environmental
43 Protection represents, in writing, to the council that such project will not
44 materially affect the status of such land as core forest. In conducting an
45 evaluation of a project for purposes of subparagraph (B)(iii) of this
46 subsection, the Departments of Agriculture and Energy and
47 Environmental Protection may consult with the United States
48 Department of Agriculture and soil and water conservation districts.
49 Approval of any such solar photovoltaic facility to be located on prime
50 farmland, farmland of state-wide importance or land that is core forest

51 shall require the applicant to furnish a bond for all costs associated with
52 the decommissioning of such facility. The Departments of Agriculture
53 and Energy and Environmental Protection shall, respectively, post on
54 the Internet web site of such agencies information concerning any
55 application for such a facility to be located on prime farmland or
56 farmland of state-wide importance, or land that is core forest. Such
57 information shall include, but not be limited to, instructions for
58 members of the public to receive status updates and information on any
59 such applications.

60 (b) A certificate may be transferred, subject to the approval of the
61 council, to a person who agrees to comply with the terms, limitations
62 and conditions contained therein. The council shall not approve any
63 such transfer if it finds that such transfer was contemplated at or prior
64 to the time the certificate was issued and such fact was not adequately
65 disclosed during the certification proceeding.

66 (c) A certificate issued pursuant to this chapter may be amended as
67 provided in this chapter.

68 (d) This chapter shall apply to any facility described in subdivisions
69 (1) to (3), inclusive, of subsection (a) of section 16-50i, the construction
70 of which is commenced on or after April 1, 1972, and to any such facility
71 the construction of which is approved by a municipality that has
72 commenced the sale of bonds or bond anticipation notes on or after
73 April 1, 1972, the proceeds or part of the proceeds of which are to finance
74 such construction. This chapter shall apply to any facility described in
75 subdivision (4) of said subsection (a) of section 16-50i, the construction
76 of which is commenced on or after July 1, 1983, and to any such facility
77 the construction of which is approved by a municipality that has
78 commenced the sale of bonds or bond anticipation notes on or after July
79 1, 1983, the proceeds or part of the proceeds of which are to finance such
80 construction. This chapter shall apply to any facility described in
81 subdivisions (5) and (6) of said subsection, the construction of which is
82 commenced on or after October 1, 1977, and to any such facility the
83 construction of which is approved by a municipality that has

84 commenced the sale of bonds or bond anticipation notes on or after
 85 October 1, 1977, the proceeds or part of the proceeds of which are to
 86 finance such construction. This chapter shall apply to the modification
 87 of a facility described in subdivisions (1) to (3), inclusive, of said
 88 subsection (a) for which construction is commenced on or after April 1,
 89 1972, modifications of a facility described in subdivision (4) of said
 90 subsection (a) for which construction is commenced on or after July 1,
 91 1983, and modifications of a facility described in subdivisions (5) and (6)
 92 of said subsection (a) of section 16-50i, for which construction is
 93 commenced on or after October 1, 1977, whenever such modification
 94 either alone or in combination with existing or other proposed facility
 95 modifications may, as determined by the council, have a substantial
 96 adverse environmental effect. This chapter shall not apply to any matter
 97 over which any agency, department or instrumentality of the federal
 98 government has exclusive jurisdiction, or has jurisdiction concurrent
 99 with that of the state and has exercised such jurisdiction, to the exclusion
 100 of regulation of such matter by the state.

101 (e) Any person intending to construct a facility excluded from one or
 102 more provisions of this chapter may, to the extent permitted by law,
 103 elect to waive such exclusion by delivering notice of such waiver to the
 104 council. Such provisions shall thereafter apply to each facility identified
 105 in such notice from the date of its receipt by the council.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	16-50k

Statement of Purpose:

To provide for increased review of proposals to site solar facilities on certain farmlands and land that is core forest.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]